

BOARD OF ELECTIONS AND ETHICS
CERTIFICATION OF ANC/SMD VACANCIES

The District of Columbia Board of Elections and Ethics hereby gives notice that there is one vacancy in Advisory Neighborhood Commission office, certified pursuant to D.C. Official Code 1-309.06(d)(2); 2001 Ed.

VACANT: 4A06

Petition Circulation Period: **Monday, December 24, 2007 thru Monday, January 14, 2008**
Petition Challenge Period: **Thursday, January 17, 2008 thru Wednesday, January 23, 2008**

Candidates seeking the Office of Advisory Neighborhood Commissioner, or their representatives, may pick up nominating petitions from 8:30 am to 4:45 pm, Monday through Friday at the following location:

D.C. Board of Elections and Ethics
441 - 4th Street, NW, Room 250N
Washington, DC 20001

For more information, the public may call **727-2525**.

**DISTRICT OF COLUMBIA
BOARD OF ELECTIONS AND ETHICS**

**Certification of Filling Vacancies
In Advisory Neighborhood Commissions**

Pursuant to D.C. Official Code §1-309.06(d)(6)(G) and the resolution transmitted to the District of Columbia Board of Elections and Ethics "Board" from the affected Advisory Neighborhood Commission, the Board hereby certifies that the vacancy has been filled in the following single-member district by the individual listed below:

**Malik F. M. Johnson
Single-Member District 4B04**

DISTRICT OF COLUMBIA HOUSING FINANCE AGENCY**THE YARDS M/160 BUILDING****Notice of Intent to Issue Bonds**

On or about December 24, 2007, the District of Columbia Housing Finance Agency intends to transmit to the Council of the District of Columbia a notice of the Agency's intent to issue \$62,500,000 in tax-exempt and/or taxable housing revenue bonds for the acquisition and rehabilitation of the Yards M/160 Building which is located at 3rd and Tingey Streets, S.E., in Ward 6 (the "Project"). The Project consists of one building with 170 residential units, which will be comprised of studios, one-(1), two-(2), and three-(3) bedroom units. The Project may also include retail space and both surface and underground parking. A minimum of 20% of the units will be set aside for households with incomes at or below 50% of the area median income.

**DISTRICT OF COLUMBIA HISTORIC PRESERVATION OFFICE
HISTORIC PRESERVATION FUND
SUBGRANTING ASSISTANCE PROGRAM**

FY 2008 GRANT-IN-AID ANNOUNCEMENT

The District of Columbia's Historic Preservation Office (HPO) announces the availability of matching grant funds from the Federal Historic Preservation Fund (HPF) for activities consistent with priorities established under the DC Historic Preservation Plan. The DC HPF subgranting program is made possible through an annual appropriation awarded by the National Park Service.

The DC State Historic Preservation Office is currently soliciting applications for the Open-Project Community competitive selection process. In most cases, subgrant funding applied for must be matched by the applicant at 40% of the total cost of the project. In FY 2008, total grant funds available for subgrants and contracts is estimated to range from a minimum of \$25,000 up to a maximum of \$50,000 cumulative for all grants awarded. The deadline for receipt of any and all sealed applications is **5:00 pm, Friday, January 18, 2008**. All applications should be mailed to the District of Columbia Historic Preservation Office, 801 North Capitol Street, NE, Suite 3000, Washington, DC 20002, and must fully comply with submission guidelines specified in the DC Historic Preservation Fund Grants Manual (available from the DC Historic Preservation Office and on the office website at <http://planning.dc.gov>).

Eligible applicants for HPF subgrant awards include nonprofit organizations, private individuals (as contractors to the HPO) or groups working in partnership with nonprofits, institutions of higher learning, and other agencies of the Government of the District of Columbia.

Eligible activities include: survey/inventory, preservation planning, historic resource registration/nomination, public education/outreach, and resource development planning. While all historic preservation survey and planning program activities outlined under Section 101(a) of the National Historic Preservation Act of 1966 (as amended) are eligible, priority will be given to those submission that relate to the District of Columbia Historic Preservation Office Annual Work Plan for FY 2008 (available from the DC Historic Preservation Office and on the office website at <http://planning.dc.gov>).

All grants will be reviewed using a standardized rating system based on the merits of the project, the ability of the applicant to complete the project, availability of funding, and distribution of project type and location. ANC's and community groups will be given the opportunity to comment on application submittals. Final grant award decisions will be made by the DC State Historic Preservation Officer and approved by the National Park Service. Letters of support from ANC's and neighborhood organizations will be factors considered during the review process.

An original and two (2) copies of the application and proposal must be submitted for each project proposed. Additional information on the grant application procedures and submission requirements can be obtained from the DC Historic Preservation Office at 801 North Capitol Street, NE, Suite 3000, Washington, DC 2002, or at 202-442-8835 (phone) or 202-741-5246 (fax).

**DISTRICT OF COLUMBIA
HISTORIC PRESERVATION REVIEW BOARD**

NOTICE OF HISTORIC LANDMARK AND HISTORIC DISTRICT DESIGNATIONS

The D.C. Historic Preservation Review Board hereby provides public notice of its decision to designate the following properties as historic landmarks in the D.C. Inventory of Historic Sites. The properties are now subject to the D.C. Historic Landmark and Historic District Protection Act of 1978.

**Designation Case No. 91-05: Third Church of Christ, Scientist and the Christian Science
Monitor Building**

900-918 16th Street and 1601-1605 I Street, NW

Square 185, Lot 41

Designated December 6, 2007

Listing in the D.C. Inventory of Historic Sites provides recognition of properties significant to the historic and aesthetic heritage of the nation's capital city, fosters civic pride in the accomplishments of the past, and assists in preserving important cultural assets for the education, pleasure and welfare of the people of the District of Columbia.

DISTRICT OF COLUMBIA OFFICE OF PLANNING**NOTICE OF AVAILABILITY OF THE PENNSYLVANIA AVENUE, SE CORRIDOR
LAND DEVELOPMENT DRAFT FINAL PLAN FOR PUBLIC COMMENT AND
CONVENING OF PUBLIC HEARING**

ACTION: Notice of Availability of the Pennsylvania Avenue, SE Corridor Land Development Draft Final Plan for Public Comment and Convening of Public Hearing.

SUMMARY: The Pennsylvania Avenue, SE Corridor Land Development Plan is part of the Great Streets Initiative, announced by former Mayor Anthony Williams in March 2005. This multi-year effort seeks to bring together numerous agencies to transform under-invested corridors into thriving and inviting neighborhood centers by using public actions and tools as needed to attract private investment. The Pennsylvania Avenue, SE Corridor Land Development Plan presents an opportunity to take stock of what exists on Pennsylvania Avenue, SE and develop recommendations that will realize the aspirations of a diverse group of local stakeholders. This Plan combines community desires with professional research and analysis to set a framework for how Pennsylvania Avenue, SE will improve over the next twenty years.

The DC Office of Planning has published for public review and comment the Pennsylvania Avenue, SE Corridor Land Development Draft Final Plan. The plan is a preliminary analysis of various redevelopment opportunities along Pennsylvania Avenue, SE. DCOP emphasizes that the findings, conclusions and recommendations in the Draft Small Area Plan are preliminary. The DC Office of Planning is providing a 30-day public comment period on the Draft Final Pennsylvania Avenue, SE Corridor Land Development Plan. Plan stakeholders received notice of plan review starting December 12, 2007, giving the public more than 30 days before comments are due. Comments must be postmarked by the close of the comment period, which is January 16, 2008. Information on how to submit comments is set forth below.

The DC Office of Planning, working in collaboration with the cooperating agencies, will consider all public comments on the Draft Plan and make its final recommendations on the project to the Mayor of the District of Columbia. Subsequently, the mayor will submit to the District of Columbia City Council for consideration of a Revised Draft Plan. The Council will provide additional opportunities for public comment, and will review and fully evaluate the Revised Draft Plan. The Council will make its final decision regarding this project and any modifications and conditions it might impose on the Plan. The Mayor, through the cooperating agencies will implement the plan.

FOR FURTHER INFORMATION CONTACT: Aubrey Thagard, Neighborhood Planning Coordinator-Ward 8; Evelyn Kasongo, Neighborhood Planning Coordinator-Ward 7; or Jeff Davis, Neighborhood Planning Coordinator-Ward 6, DC Office of Planning, by mail at 801 North Capitol Street, N.E., Suite 4000, Washington, DC 20002; by telephone at (202) 442-7600; fax at (202) 442-7638; or email at aubrey.thagard@dc.gov; evelyn.kasongo@dc.gov; and jeff.davis@dc.gov.

SUPPLEMENTARY INFORMATION:**Public Availability**

The DC Office of Planning has distributed the Draft Plan to several public entities and asked that the entire Draft Final Plan be made available for the public to review. The Draft Final Plan is also available for public reviews at:

SE Branch Library
403 7th Street, SE
Washington, DC 20003

Francis A. Gregory Library
3660 Alabama Ave, SE
Washington, DC 20020

DC Dept. of Human Services
Fort Davis Shopping Center
3851 Alabama Ave, SE
Washington, DC 20020

Anacostia Interim Library
1800 Good Hope Rd, SE
Washington, DC 20020

Randle Highlands Elementary
1650 30th Street, SE
Washington, DC 20020

Watkins Elementary
420 12th Street, SE
Washington, DC 20003

MPD 6th District Substation
2701 Pennsylvania Ave, SE
Washington, DC 20019

DC Office of Planning
801 North Capitol Street NE
Suite 4000
Washington, DC 20002

The draft plan is also available online at the DC Office Planning Web site:
www.planning.dc.gov. Click on "Neighborhood & Revitalization Plans" and then "Pennsylvania Avenue, SE" under either Ward 6, 7 or 8. The direct link is:
<http://www.planning.dc.gov/planning/cwp/view,a.1285,q.638347.asp>

Public Comment

Written comments on the Draft Plan must be submitted by January 16, 2008. Comments must include the name, address and any organization for which the comments represent. Please send all comments to: Aubrey Thagard, Neighborhood Planning Coordinator-Ward 8; Evelyn Kasongo, Neighborhood Planning Coordinator-Ward 7; or Jeff Davis, Neighborhood Planning Coordinator -Ward 6, DC Office of Planning, by mail at 801 North Capitol Street, N.E., Suite 4000, Washington, DC 20002; by fax at (202) 442-7638; or email at aubrey.thagard@dc.gov; evelyn.kasongo@dc.gov; and jeff.davis@dc.gov.

Mayoral Hearing

In addition to receiving written comments on the Draft Plan, DC Office of Planning will host a Mayoral Hearing on January 17, 2008 at Randle Highlands Elementary School located at 1650 30th Street SE, Washington DC 20020 from 6:00 to 8:00 p.m.

At the hearing, DC Office of Planning will provide boards with visual representation pertaining to the recommendations set forth within the Draft Final Plan and respond to any questions relative to the graphic displays. Following this, members of the public will have an opportunity to offer comments.

Submitted by: Evelyn D. Kasongo, Neighborhood Planning Coordinator-Ward 7, DC Office of Planning, by mail at 801 North Capitol Street, N.E., Suite 4000, Washington, DC 20002; by telephone at (202) 442-7613; fax at (202) 442-7638; or email at evelyn.kasongo@dc.gov.

Office of the Secretary of the District of Columbia

December 4, 2007

Notice is hereby given that the following named persons have been appointed as Notaries Public in and for the District of Columbia, effective on or after December 15, 20007.

Alfred,	Alycia K.	New	3120 Berry Rd,NE	20018
Berkeley,	Aisha	New	St. Coletta of Greater Wash 1901 Independence Ave,SE	20003
Blumenstock,	Olga Q.	Rpt	O'Toole Rothwell et al 1350 Conn Ave,NW#200	20036
Boone,	Ingrid	Rpt	Electronic Data Systems 1331 Pa Ave,NW#1300N	20004
Braswell,	Gail M.	New	Bates White 1300 I St,NW#600E	20005
Braxton,	Linda J.	Rpt	Center City Community Corp 128 M St,NW#310	20001
Broady,	Rocquel	Rpt	N F I B 1201 F St,NW#200	20004
Brown,	Edith C.	New	Ballard Spahr et al 601 13th St,NW#1000S	20005
Bryant,	Julie	New	Ballard Spahr et al 601 13th St,NW#1000S	20005
Carlyle,	Donna M.	New	Dow Lohnes 1200 N H Ave,NW#800	20036
Chan,	Wai Lun	New	Stern Investment Advisory 4401A Conn Ave,NW PMB#2	20008
Clark,	John J.	New	Dept of Air Force 11th Wing 20th MacDill St,#240	20032
Coffer,	Rodney	New	Leonard Street & Deinard 1627 I St,NW#610	20006
Coffey,	Stephanie	New	315 14th Pl,NE	20002

Coia,	Albert	Rpt	Tompkins Builders 1333 H St,NW#200	20005
Cole,	DeGeta A.	Rpt	Comptroller of the Currency 250 E St,SW	20219
Cruz,	Nestor E.	Rpt	Carr Morris & Graeff 1120 G St,NW#930	20005
Cunningham,	Christina R.	New	U S A C 2000 L St,NW#200	20036
Czyz,	Jason	Rpt	Troutman Sanders 401 9th St,NW#1000	20004
Davis,	Mark S.	New	218 16th St,SE	20003
Dekle,	Teresa	New	IREX 2121 K St,NW#700	20037
DiRaimo,	Edgar F.	Rpt	G S A/P B S/P G A 1800 F St,NW#5022	20405
Douglas,	Joyce D.	Rpt	Federal Energy Regulatory Com 888 First St,NE	20426
Eft,	Natalie D.	New	Lowe Enterprises 1101 Conn Ave,NW#250	20036
Ellis,	Lisa M.	New	Zuckerman Spaeder 1800 M St,NW#1000	20036
Fello,	Belinda B.	New	Dept of Air Force 11th Wing 20th MacDill St,#240	20032
Glover,	Antoinette M.	Rpt	Amer Univ/Wash College of Law 4801 Mass Ave,NW	20016
Gottfried,	Kurt	Rpt	Skadden Arps 1440 N Y Ave,NW	20005
Harwood,	Deborah H.	New	Natl Wildlife Refuge Assoc 1901 Pa Ave,NW#407	20006

Hennasey,	Jennifer Clague	New	DLA Piper US LLP 500 8th St,NW 6th Fl HR	20001
James,	Maxwell	Rpt	State Farm Insurance 2301 Ga Ave,NW#R	20001
Katz,	Jeanne G.	Rpt	Caplin & Drysdale 1 Thomas Circle,NW#1100	20005
Kesterson,	Leslie A.	New	HOR/Office of the Clerk 1718 Longworth HOB	20515
Kinnaman,	Donna B.	Rpt	First American Title 1801 K St,NW#200 K-1	20006
Lopez,	Maria Elena	New	1245 Evarts St,NE	20018
Lutes,	Barbara A.	Rpt	Miller & Van Eaton 1155 Conn Ave,NW#1000	20036
McCarn,	Stephanie A.	New	Capital Reporting 1821 Jefferson Pl,NW 3rdFl	20036
McKenzie,	Nickoline S.	Rpt	773 19th St,NE	20002
MacPherson, IV,	Frank B.	New	Capital Reporting 1821 Jefferson Pl,NW 3rdFl	20036
Madison,	Linda R.	Rpt	Van Ness Feldman 1050 ThomJeff St,NW 7thFl	20007
Makell,	Charmian P.	New	Lenders First Choice 5603 2nd St,NW	20011
Marshall,	Brenda F.	Rpt	Winston & Strawn 1700 K St,NW	20006
Marshall,	Linda L.	Rpt	Fannie Mae 3900 Wis Ave,NW	20016
Mincey,	Steven J.	New	B S A 1150 18th St,NW#700	20036
Murnane,	Barbara A.	New	Powell Goldstein	

			901 N Y Ave,NW 3rdFl	20001
Norwood,	Lynn E.	New	Postal Regulatory Commission 901 N Y Ave,NW#200	20268
Olin,	S.E. Johana	Rpt	Law Office of Edward Gonzalez 2405 I St,NW#1A	20037
O'Sullivan,	Maura	Rpt	Nixon Peabody 401 9th St,NW#900	20004
Parker,	Brenda	New	Leonard Street & Deinard 1627 I St,NW#610	20006
Parker,	Candas E.	Rpt	D.C. Housing Authority 1133 N Cap St,NE	20002
Patrnogic,	Miroslava	New	Wachovia Bank 2000 L St,NW	20036
Riker,	Roxanne B.	Rpt	Kirkland & Ellis 655 15th St,NW	20005
Robles,	Liza M.	New	Holland & Knight 2099 Pa Ave,NW #100	20006
Saunders,	Catherine	New	Sterne Kessler et al 1100 N Y Ave,NW	20005
Scott,	Candice	New	Preferred Offices 1701 Pa Ave,NW#300	20006
Short,	Donald K.	New	Universal Serv Admin Co 2000 L St,NW#200	20036
Sirleaf,	Mary F.	Rpt	Howard Univ School of Law 2900 Van Ness St,NW	20008
Smith,	Mary Carter	Rpt	McLeod Watkinson Miller 1 Mass Ave,NW#800	20001
Smith,	Petra	New	B R P US 1808 I St,NW 4thFl	20006
Sneed,	Stephanie K.	New	St. Coletta of Greater Wash 1901 Independence Ave,SE	20003

Thompson,	Chanta	New	Natl Parks Conservation Assoc 1300 19th St,NW#300	20036
Treakle,	Vivian	New	Cushman & Wakefield 1801 K St,NW#1100L	20006
Tucker,	Andrea	New	Pillar of Truth Bible Church 4200 E Cap St,NE	20019
Tucker,	Ashiya	New	Wachovia Bank 1901 7th St,NW	20001
Ugbomah,	Elizabeth	New	O'Connell & Glock 1100 Conn Ave,NW 9thFl	20036
Walsh,	Kennesha S.	New	Wachovia Bank 3200 Pa Ave,SE	20019
White,	Demetria	New	1151 45th Pl,SE	20019
Williams,	Jeanna K.	New	3341 22nd St,SE#J	20020
Williams,	Piper A.	Rpt	Georgetown Univ Hospital 3800 Reservoir Rd,NW	20007
Word,	Margie S.	Rpt	808 Nicholson St,NE	20011
Zulager,	Ried R.	Rpt	Cogent Communications 1015 31st St,NW	20007

**GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT**

Application No. 17603 of Johnson Kunlipe, pursuant to 11 DCMR § 3104.1, for a special exception under § 353 to allow the development of four four-unit apartment buildings in the R-5-A district at premises 5206 and 5208 F Street, S.E. and 5210 and 5212 F Street, S.E. (Square 5316, Lots 25, 26, 805, and 807).

HEARING DATE: May 8, 2007

DECISION DATE: June 5, 2007

DECISION AND ORDER

This self-certified application was submitted December 28, 2006 by Johnson Kunlipe ("Applicant"), the owner of the property that is the subject of the application. The application requested a special exception under § 353 of the Zoning Regulations to allow development of four new apartment buildings, each with four apartment units, in the R-5-A district at 5206, 5208, 5210, and 5212 F Street, S.E. (Square 5316, Lots 25, 26, 805, and 807).

Following a hearing on May 8, 2007 and a public meeting on June 5, 2007, the Board voted 4-0-1 to grant the application.

PRELIMINARY MATTERS:

Notice of Application and Notice of Hearing. By memoranda dated January 4, 2007, the Office of Zoning provided notice of the application to the Office of Planning, the Department of Transportation, the Department of Housing and Community Development, the State Board of Education, the Councilmember for Ward 7, Advisory Neighborhood Commission ("ANC") 7E, and Single Member District/ANC 7E01. Pursuant to 11 DCMR § 3113.13, on February 27, 2007 the Office of Zoning mailed letters or memoranda providing notice of the hearing to the Applicant, ANC 7E, and owners of property within 200 feet of the subject property. Notice was also published in the D.C. Register on March 16, 2007 (54 DCR 2333).

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Party Status. In addition to the Applicant, ANC 7E was automatically a party in this proceeding. At the public hearing, the Board granted party status in opposition to the application to Rosa Green, the owner of property abutting the subject property.

Applicant's Case. The Applicant presented evidence and testimony from Ike Agbim, an architect, who described the plans to construct four apartment buildings, each containing four apartments. According to the Applicant, approval of the requested special exception would not adversely affect neighboring properties but would allow the construction of apartment buildings that would be compatible with the neighborhood character and with existing uses on the street.

Government Reports. By memorandum dated May 1, 2007, the Office of Planning ("OP") recommended approval of the requested special exception, concluding that the project would satisfy the requirements of sections 353 and 3104.1. According to OP, the Applicant's proposed development would generally further a number of policies and objectives set forth in the Land Use and Far Northeast and Southeast Area elements of the District Elements of the Comprehensive Plan for the National Capital ("Comprehensive Plan"), and would not be inconsistent with the moderate-density residential designation of the subject property in the future land-use map of the Comprehensive Plan.

The OP report also indicated that the District Department of Transportation ("DDOT") had not expressed any concerns regarding the Applicant's proposed parking plan, including the driveway and drive aisles.

By supplemental report dated March 15, 2007, the Office of Planning reiterated its conclusion that the requested special exception would be consistent with the designation of the subject property as moderate-density residential in the future land-use map of the Comprehensive Plan. OP noted that the property is zoned R-5-A, a district designed for a variety of urban residential development types, and stated that the proposed multifamily dwellings would be appropriate in the R-5-A zone. According to OP, the streets in the vicinity of the subject property would provide ample on-street parking for visitors to the new apartment buildings.

By additional supplemental report dated May 23, 2007, the Office of Planning indicated that some residents of the neighborhood in the vicinity of the subject property had called to express their opposition to the Applicant's project, asserting that the new buildings would cause adverse impacts on privacy, light, and air, that the subject property was too small to accommodate the proposed buildings and recreational opportunities, that the

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height and density of the project would not be in character with the neighborhood, and that the project would add to the already high proportion of rental units in the area.

By memorandum dated May 11, 2007, the Department of Housing and Community Development ("DHCD") indicated its support for approval of the requested special exception. According to DHCD, the "townhouse scale and massing" of the Applicant's project would be in character with the apartment scale of the surrounding neighborhood.

ANC Report. By letter dated April 23, 2007, Advisory Neighborhood Commission 7E submitted a list of "possible considerations" regarding the Applicant's proposal. The ANC raised concerns pertaining to a potential retaining wall or fence around the apartment complex, parking, arrangements for trash collection, the siting of the buildings, use of a public alley between two of the lots, and possible adverse lighting impacts. By letter dated May 21, 2007, ANC 7E indicated that, at a public meeting on May 8, 2007 with a quorum present, the ANC voted 2-1-2 not to support the application, citing a concern about the construction of apartments rather than one-family dwellings.

Party in Opposition to the Application. The party in opposition argued that the subject property should not be developed with apartment buildings, citing concerns about population density, traffic, safety, and a lack of recreational opportunities in the neighborhood. According to the party in opposition, one-family detached dwellings would be more compatible with the character of the neighborhood.

Persons in Opposition. The Board heard testimony or received letters in opposition to the application from several persons living in the vicinity of the subject property. The persons in opposition generally cited a desire for development of one-family dwellings rather than apartments and concerns about decreased air flow, stormwater runoff, and a potential loss of privacy.

FINDINGS OF FACT**The Subject Property and Surrounding Area**

1. The subject property comprises four lots located at 5206, 5208, 5210, and 5212 F Street, S.E. (Square 5316, Lots 25, 26, 805, and 807), on the north side of F Street between 51st and 53rd Streets, S.E. Three of the lots – Lots 805, 25, and 26 – are contiguous; an unimproved public alley, 16 feet wide, separates Lots 805 and 807. Each lot is rectangular and has a depth of 100 feet; lot widths are either 32 feet (Lots 807 and 805) or 40 feet (Lots 25 and 26).
2. The site is relatively flat and is currently unimproved.

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3. The subject property is located in Ward 7 in the Marshall Heights neighborhood, in an area developed primarily with small apartment buildings and one-family detached dwellings.
4. Other properties in the immediate vicinity of the subject property are developed with one-family detached dwellings and apartment buildings. The abutting property to the west is undeveloped.
5. The subject property is located near several recreation sites and public facilities, including three public schools and a community center.

Applicant's Project

6. The Applicant planned to construct four new apartment buildings, one on each lot comprising the subject property. Each building will be approximately 38 feet in height, with three stories and a cellar. Each building will contain four apartments, one two-bedroom unit per floor. The floor area ratio of each building will be 0.9, and lot occupancy on each lot will be 30 percent.
7. Each building entrance will be located on F Street and each building will be set back six feet from the front property line, although the buildings on Lots 25 and 26 will be slightly larger than the buildings on Lots 805 and 807. The buildings on Lots 805 and 807 will abut the public alley and have side yards 12 feet wide on the opposite sides of the buildings; the rear yards will be 46 feet deep. The buildings on Lots 25 and 26 will have nine-foot side yards on both sides, and rear yards 40 feet deep.
8. The building located on Lot 26, the easternmost parcel, will not have any windows facing the abutting property, a one-family dwelling at 5214 F Street, S.E.
9. The project will provide one parking space for each dwelling unit, for a total of 16 parking spaces on the subject property. Each building will provide four parking spaces in the rear yards. Access to the parking spaces on Lots 805 and 807 will be provided through the public alley; the parking spaces on Lots 25 and 26 will be reached via a planned driveway, approximately 18 feet wide, running between the two buildings to the street.
10. Each building will provide trash storage in a six-foot-high enclosure, with a gate, located in the side yards near the front of each building. The trash enclosures will be accessible via a paved walkway from the sidewalk along F Street.

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11. The Applicant's landscaping plan includes a six-foot-high fence along the rear and both sides of the subject property, with additional fencing along the front of a central landscaped area, and the planting of evergreen hedges around the rear of the property, screening the parking area. Shade trees, smaller trees such as magnolias, and grass will also be planted. Three recreational areas will be provided within the landscaped portions of the subject property.
12. The Applicant's lighting plan provides for the installation of lights that will minimize spillover light effects on neighboring properties.
13. The Board credits the testimony of the Office of Planning that the locations of the buildings on the lots will not restrict light and air to future occupants of the apartments or to residents on adjacent properties, and that the scale of the buildings will be compatible with other apartment buildings in the neighborhood.

Harmony with Zone Plan

14. The R-5 districts are general Residence districts designed to permit flexibility of design by permitting, in a single district, all types of urban residential development if they conform to the height, density, and area requirements. 11 DCMR § 350.1. The R-5-A district permits a low height and density. 11 DCMR § 350.2.
15. The Applicant's proposal will satisfy matter-of-right requirements in the R-5-A zone for parking and for building height, setbacks, lot occupancy, and floor area ratio.
16. The future land-use map of the Comprehensive Plan designates the subject property as moderate-density residential, where row houses and garden apartments are the predominant uses, along with one-family dwellings and low-rise apartment buildings.
17. The Board credits the conclusion of the Office of Planning that the requested special exception will be in harmony with the general purpose and intent of the Zoning Regulations and Map, as well as with provisions of the Comprehensive Plan and future land-use map.

CONCLUSIONS OF LAW

The Applicant seeks a special exception under § 353 of the Zoning Regulations to allow development of four new apartment buildings, each with four apartment units, in the R-5-A district at 5206, 5208, 5210, and 5212 F Street, S.E. (Square 5316, Lots 25, 26, 805,

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and 807). The Board is authorized under § 8 of the Zoning Act, D.C. Official Code § 6-641.07(g)(2) (2001), to grant special exceptions, as provided in the Zoning Regulations, where, in the judgment of the Board, the special exception will be in harmony with the general purpose and intent of the Zoning Regulations and Zoning Maps and will not tend to affect adversely the use of neighboring property in accordance with the Zoning Regulations and Zoning Map, subject to specific conditions. *See* 11 DCMR § 3104.1.

Pursuant to § 353, the new residential development proposed by the Applicant must be reviewed by the Board as a special exception under § 3104.1. The Applicant is required to submit site plans, typical floor plans and elevations, and plans showing the project's grading, landscaping, and rights of way and easements. 11 DCMR § 353.5. The Board is required to refer the application to the State Board of Education for comment and recommendation as to the adequacy of existing and planned area schools to accommodate the numbers of students that can be expected to reside in the project, to the Departments of Transportation and Housing and Community Development for comment and recommendation as to the adequacy of public streets, recreation, and other services to accommodate the residents of the project and the relationship of the proposed project to public plans and projects, and to the Office of Planning for comment and recommendation on the site plan, arrangement of buildings and structures, and provisions of light, air, parking, recreation, landscaping, and grading as they relate to the future residents of the project and the surrounding neighborhood. 11 DCMR §§ 53.2 – 353.4. All of the requirements of § 353 were satisfied in this proceeding.

The Board concludes that the requested special exception will be in harmony with the general purpose and intent of the Zoning Regulations and Zoning Maps. The R-5-A zone district permits the development of multi-family dwellings, and the Applicant's project will comply with applicable zoning requirements with respect to height, bulk, lot occupancy, and setbacks as well as with respect to parking. The Board finds that the neighborhood around the subject property contains a mixture of dwelling types, from one-family detached dwellings to small apartment buildings. The proposed development of a four-unit apartment building on each of the four lots comprising the subject property will thus be in character with surrounding community.

The Board also concludes that the requested special exception will not tend to affect adversely the use of neighboring property in accordance with the Zoning Regulations and Zoning Map. The Board was not persuaded by the party in opposition that the proposed apartment buildings would cause adverse impacts on the use of neighboring property because of population density, traffic, safety, or a lack of recreational opportunities in the neighborhood. The Board notes OP's recommendation to approve the requested special exception as consistent with the requirements of sections 353 and 3104.1, as well as

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DDOT's support for the Applicant's parking plan. The provision of air and light to the apartments and to neighboring properties will not be obstructed, given the project design and the distance of the buildings from neighboring dwellings.

ANC 7E did not submit a written report adopted by a majority of the ANC. It did submit a letter dated April 23, 2007, in which it raised various considerations about the project. The Board finds that the Applicant has adequately addressed these considerations pertaining to the installation of a fence around the project, parking, trash collection, the siting of the buildings, use of the public alley, and lighting impacts. The ANC also submitted a letter dated May 21, 2007, indicating that the Commissioners were divided on the issues, noting one issue in particular - the construction of apartments rather than one-family dwellings. The ANC did not offer the Board persuasive advice that would cause the Board to find that the requested special exception is contrary to the Zoning Regulations and would adversely affect the use of neighboring property.

Based on the above findings of fact, and having given great weight to the recommendation of the Office of Planning, the Board concludes that the Applicant has satisfied the burden of proof with respect to the application for a special exception under § 353 to construct four new apartment buildings, each with four apartment units, in the R-5-A district at 5206, 5208, 5210, and 5212 F Street, S.E. (Square 5316, Lots 25, 26, 805, and 807). Accordingly, it is therefore **ORDERED** that the application is **GRANTED**.

VOTE: **4-0-1** (Ruthanne G. Miller, Curtis L. Etherly, Jr., Marc Loud, and John A. Mann II to grant the application; no Zoning Commission member participating or voting)

BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT

Each concurring Board member approved the issuance of this order.

DEC 11 2007

FINAL DATE OF ORDER: _____

PURSUANT TO 11 DCMR § 3125.6, THIS ORDER WILL BECOME FINAL UPON ITS FILING IN THE RECORD AND SERVICE UPON THE PARTIES. UNDER 11 DCMR § 3125.9, THIS ORDER WILL BECOME EFFECTIVE TEN DAYS AFTER IT BECOMES FINAL.

BZA APPLICATION NO. 17603**PAGE NO. 8**

PURSUANT TO 11 DCMR § 3130, THIS ORDER SHALL NOT BE VALID FOR MORE THAN TWO YEARS AFTER IT BECOMES EFFECTIVE UNLESS, WITHIN SUCH TWO-YEAR PERIOD, THE APPLICANT FILES PLANS FOR THE PROPOSED STRUCTURE WITH THE DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS FOR THE PURPOSES OF SECURING A BUILDING PERMIT.

PURSUANT TO 11 DCMR § 3125 APPROVAL OF AN APPLICATION SHALL INCLUDE APPROVAL OF THE PLANS SUBMITTED WITH THE APPLICATION FOR THE CONSTRUCTION OF A BUILDING OR STRUCTURE (OR ADDITION THERETO) OR THE RENOVATION OR ALTERATION OF AN EXISTING BUILDING OR STRUCTURE, UNLESS THE BOARD ORDERS OTHERWISE. AN APPLICANT SHALL CARRY OUT THE CONSTRUCTION, RENOVATION, OR ALTERATION ONLY IN ACCORDANCE WITH THE PLANS APPROVED BY THE BOARD.

IN ACCORDANCE WITH THE D.C. HUMAN RIGHTS ACT OF 1977, AS AMENDED, D.C. OFFICIAL CODE §§ 2-1401.01 *ET SEQ.* (ACT), THE DISTRICT OF COLUMBIA DOES NOT DISCRIMINATE ON THE BASIS OF ACTUAL OR PERCEIVED: RACE, COLOR, RELIGION, NATIONAL ORIGIN, SEX, AGE, MARITAL STATUS, PERSONAL APPEARANCE, SEXUAL ORIENTATION, GENDER IDENTITY OR EXPRESSION, FAMILIAL STATUS, FAMILY RESPONSIBILITIES, MATRICULATION, POLITICAL AFFILIATION, GENETIC INFORMATION, DISABILITY, SOURCE OF INCOME, OR PLACE OF RESIDENCE OR BUSINESS. SEXUAL HARASSMENT IS A FORM OF SEX DISCRIMINATION WHICH IS PROHIBITED BY THE ACT. IN ADDITION, HARASSMENT BASED ON ANY OF THE ABOVE PROTECTED CATEGORIES IS PROHIBITED BY THE ACT. DISCRIMINATION IN VIOLATION OF THE ACT WILL NOT BE TOLERATED. VIOLATORS WILL BE SUBJECT TO DISCIPLINARY ACTION.

**GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT**

Application No. 17607 of Ike Agbim, pursuant to 11 DCMR § 3104.1, for a special exception under section 353 to construct a four-unit apartment building in the R-5-A district at premises 721 49th Street, N.E. (Square 5179, Lots 60 and 61).

HEARING DATE: May 15, 2007

DECISION DATE: July 3, 2007

DECISION AND ORDER

This self-certified application was submitted January 8, 2007 by Ike Agbim ("Applicant"), the owner of the property that is the subject of the application. The application requests a special exception under section 353 of the Zoning Regulations to allow development of a new four-unit apartment building in the R-5-A district at 721 49th Street, N.E. (Square 5179, Lots 60 and 61).

Following a hearing on May 15, 2007 and a public meeting on July 3, 2007, the Board voted 4-0-1 to grant the application.

PRELIMINARY MATTERS:

Notice of Application and Notice of Hearing. By memoranda dated January 10, 2007, the Office of Zoning provided notice of the application to the Office of Planning, the Department of Transportation, the Councilmember for Ward 7, Advisory Neighborhood Commission ("ANC") 7D, and Single Member District/ANC 7D01. By memoranda dated February 13, 2007, the Office of Zoning provided notice of the application to ANC 7C, the ANC in which the subject property is located, and to Single Member District/ANC 7C01. Pursuant to 11 DCMR § 3113.13, on March 1, 2007 the Office of Zoning mailed letters or memoranda providing notice of the hearing to the Applicant, ANC 7C, and owners of property within 200 feet of the subject property. Notice was also published in the D.C. Register on March 9, 2007 (54 DCR 2100).

Party Status. In addition to the Applicant, ANC 7C was automatically a party in this proceeding. At the public hearing, the Board granted party status in opposition to the application to Thomas K. Stevenson, the owner of two apartment buildings located on adjoining lots next to the subject property at 711 and 719 49th Street N.E.

BZA APPLICATION NO. 17607**Page 2**

Applicant's Case. The Applicant presented evidence and testimony describing plans to construct a four-unit apartment building, with four parking spaces provided in a lot at the rear of the property. The Applicant indicated an intent to pave a portion of the public alley at the rear of the subject property, consistent with the requirements of the District Department of Transportation, to provide vehicular access to the parking lot. According to the Applicant, approval of the requested special exception would improve the current condition of the subject property and would not adversely affect the use of neighboring property.

Government Reports. By memorandum dated May 8, 2007, the Office of Planning ("OP") recommended approval of the requested special exception, concluding that the project would satisfy the requirements of sections 353 and 3104.1. OP cited policy support in the District Elements of the Comprehensive Plan for the National Capital ("Comprehensive Plan") for new infill housing, and noted that "an adequate number of public schools" were located within a mile of the proposed development to accommodate future students who might reside there.

By memorandum dated July 3, 2007, the District Department of Transportation ("DDOT") indicated no objections to the Applicant's proposal, provided that the Applicant would construct the public alley at the rear of the subject property to DDOT standards to give access to the project's parking lot. DDOT noted that the alley is currently unimproved and not in a condition suitable for automobile traffic.

ANC Report. Advisory Neighborhood Commission 7C did not submit a written report in this proceeding or testify at the public hearing. It therefore could not be given great weight by the Commission.

Party in Opposition to the Application. The party in opposition argued that the Applicant's proposed four-unit apartment building would be too large for the subject property and would block the view of tenants living in the apartment building on the abutting lot. The party in opposition also contended that approval of the requested special exception would cause adverse impacts on the use of neighboring property due to traffic congestion and insufficient parking.

Person in Opposition. A resident of 49th Street living across the street from the subject property testified in opposition to the application, stating that the property should be developed with a one-family dwelling rather than an apartment building.

BZA APPLICATION NO. 17607**Page 3****FINDINGS OF FACT****The Subject Property and Surrounding Area**

1. The subject property is located at 721 49th Street, N.E., on the east side of 49th Street near its intersection with Hayes Street (Square 5179, Lots 60 and 61). The parcel is trapezoidal and has an area of 4,091 square feet, with approximately 50 feet of frontage on 49th Street. The parcel extends 100 feet deep and is almost 32 feet wide at the rear lot line.
2. A public alley, 15 feet wide, abuts the subject property at the rear. The alley extends through the square from Hayes Street on the north to Nannie Helen Burroughs Avenue on the south.
3. The site is unimproved and often contains parked or abandoned vehicles.
4. The subject property is located in Ward 7 in the Deanwood neighborhood. The area in the vicinity is developed primarily with moderate-density apartment buildings, one-family detached dwellings, and row dwellings. Two apartment buildings on adjoining lots directly south of the subject property, located at 719 and 711 49th Street N.E., contain seven and 14 units, respectively. An irregularly shaped vacant lot abuts the subject property to the north. Several public elementary, middle, and high schools are located within a mile of the subject property.
5. Nannie Helen Burroughs Avenue, located one block south of the subject property, is a major traffic arterial and is served by Metrobus routes that provide connections to the Minnesota Avenue and Deanwood Metrorail stations.
6. The future land-use map of the Comprehensive Plan designates the subject property as moderate-density residential, characterized predominantly by row dwellings and garden apartments as well as a mix of one-family detached dwellings and low-rise apartment buildings.

Applicant's Project

7. The Applicant plans to construct a new four-unit apartment building, three stories with cellar, approximately 38 feet in height. Each floor, including the cellar, will contain a two-bedroom apartment unit. Four parking spaces will be provided in a surface lot at the rear of the property, accessible from the public alley.

BZA APPLICATION NO. 17607**Page 4**

8. The apartment building will be 22 feet wide and 54 feet long. The property will have a nine-foot side yard on the south side, so that the new building will be located at least 16 feet from the existing apartment building on the lot abutting the subject property to the south. A similar side yard, approximately nine feet at its most narrow, will be provided on the north side of the building. The rear yard will be 46 feet deep.
9. The Applicant will provide landscaping on both sides of the property, including sod ground cover and small trees and shrubbery around the building. The parking area will be screened using an evergreen hedge along the western side and cinderblock walls, four feet tall, along the north and south sides. A six-foot wood fence, topped with a 12-inch lattice panel, will be located along each of the east-west property lines. A trash receptacle will be provided on a concrete pad located at the rear of the building, accessible by a three-foot-wide paved walkway leading to the parking area; trash will be removed through the alley.
10. The Applicant's lighting plan designates low-mounted pole fixtures to avoid adverse light impacts on neighboring property.
11. The Board credits the testimony of the Office of Planning that the new apartment building will have limited impacts on the provision of air and light to adjacent properties.

Harmony with Zone Plan

12. The R-5 districts are general Residence districts designed to permit flexibility of design by permitting, in a single district, all types of urban residential development if they conform to the height, density, and area requirements. 11 DCMR § 350.1. The R-5-A district permits a low height and density. 11 DCMR § 350.2.
13. The Applicant's proposal will satisfy matter-of-right requirements in the R-5-A zone for parking and for building height, setbacks, and floor area ratio.
14. The Board credits the conclusion of the Office of Planning that the requested special exception will be in harmony with the general purpose and intent of the Zoning Regulations and Map, as well as with provisions of the Comprehensive Plan and future land-use map. The new four-unit apartment building will be in character with the mix of one-family dwellings and small apartment buildings presently located in the vicinity of the subject property.

BZA APPLICATION NO. 17607**Page 5****CONCLUSIONS OF LAW**

The Applicant seeks a special exception under § 353 of the Zoning Regulations to allow development of a new four-unit apartment building in the R-5-A district at 721 49th Street, N.E. (Square 5179, Lots 60 and 61). The Board is authorized under § 8 of the Zoning Act of 1938, D.C. Official Code § 6-641.07(g)(2) (2001), to grant special exceptions, as provided in the Zoning Regulations (Title 11, DCMR). Subsection 3104.1 of the Zoning Regulations provides that the Board may grant a special exception upon a finding that the proposed use will be in harmony with the general purpose and intent of the Zoning Regulations and Zoning Maps and will not tend to affect adversely the use of neighboring property in accordance with the Zoning Regulations and Zoning Map, subject to specific conditions.

Pursuant to § 11 DCMR § 353, the new residential development proposed by the Applicant must be reviewed by the Board as a special exception under § 3104.1. The Applicant is required to submit site plans, typical floor plans and elevations, and plans showing the project's grading, landscaping, and rights of way and easements. 11 DCMR § 353.5. The Board is required to refer the application to the Board of Education (now the State Board of Education) for comment and recommendation as to the adequacy of existing and planned area schools to accommodate the numbers of students that can be expected to reside in the project, to the Departments of Transportation and Housing and Community Development for comment and recommendation as to the adequacy of public streets, recreation, and other services to accommodate the residents of the project and the relationship of the proposed project to public plans and projects, and to the Office of Planning for comment and recommendation on the site plan, arrangement of buildings and structures, and provisions of light, air, parking, recreation, landscaping, and grading as they relate to the future residents of the project and the surrounding neighborhood. 11 DCMR §§ 353.2 – 353.4. All of the requirements of § 353 were satisfied in this proceeding.

The Board concludes that the requested special exception will be in harmony with the general purpose and intent of the Zoning Regulations and Zoning Maps. The R-5-A zone district permits the development of multi-family dwellings, and the Applicant's project will comply with applicable zoning requirements with respect to height, bulk, and setbacks as well as with respect to parking. The Board finds that the neighborhood around the subject property contains a mixture of dwelling types, from one-family detached dwellings to multi-family apartment buildings. The proposed development of a small, four-unit apartment building on the subject property will thus be in character with surrounding community.

BZA APPLICATION NO. 17607**Page 6**

The Board also concludes that the requested special exception will not tend to affect adversely the use of neighboring property in accordance with the Zoning Regulations and Zoning Map. The Board was not persuaded by the party in opposition that the proposed apartment building will cause adverse impacts on the use of neighboring property because of parking congestion or obstructed views. The Applicant's project will provide four off-street parking spaces, as required under the Zoning Regulations. The Board conditions its approval of the requested special exception as suggested by DDOT, requiring the Applicant to construct the public alley at the rear of the subject property consistent with DDOT standards, thereby ensuring adequate vehicular access to the project's parking lot. The Board credits OP's conclusion that the Applicant's project will be located at a sufficient distance from the existing apartment building on the abutting lot so as not to hinder the provision of light or air to either building.

Based on the above findings of fact, and having given great weight to the recommendation of the Office of Planning, the Board concludes that the Applicant has satisfied the burden of proof with respect to the application for a special exception under § 353 to construct a new four-unit apartment building in the R-5-A district at 721 49th Street, N.E. (Square 5179, Lots 60 and 61). Accordingly, it is therefore **ORDERED** that the application is **GRANTED**, subject to one **CONDITION**:

Prior to the issuance of the first certificate of occupancy for the project, the Applicant shall construct the public alley at the rear of the subject property, as necessary to provide vehicular access to the parking lot, consistent with the requirements and standards of the District Department of Transportation.

VOTE: **4-0-1** (Ruthanne G. Miller, Curtis L. Etherly, Jr., John A. Mann II, and Michael Turnbull (by absentee vote) to grant the application; one Board member not participating, not voting).

BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT

Each concurring Board member approved the issuance of this order.

FINAL DATE OF ORDER: DEC 10 2007

BZA APPLICATION NO. 17607

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UNDER 11 DCMR 3125.9, "NO DECISION OR ORDER OF THE BOARD SHALL TAKE EFFECT UNTIL TEN DAYS AFTER HAVING BECOME FINAL PURSUANT TO THE SUPPLEMENTAL RULES OF PRACTICE AND PROCEDURE FOR THE BOARD OF ZONING ADJUSTMENT."

PURSUANT TO 11 DCMR § 3130, THIS ORDER SHALL NOT BE VALID FOR MORE THAN TWO YEARS AFTER IT BECOMES EFFECTIVE UNLESS, WITHIN SUCH TWO-YEAR PERIOD, THE APPLICANT FILES PLANS FOR THE PROPOSED STRUCTURE WITH THE DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS FOR THE PURPOSES OF SECURING A BUILDING PERMIT.

PURSUANT TO 11 DCMR § 3125 APPROVAL OF AN APPLICATION SHALL INCLUDE APPROVAL OF THE PLANS SUBMITTED WITH THE APPLICATION FOR THE CONSTRUCTION OF A BUILDING OR STRUCTURE (OR ADDITION THERETO) OR THE RENOVATION OR ALTERATION OF AN EXISTING BUILDING OR STRUCTURE, UNLESS THE BOARD ORDERS OTHERWISE. AN APPLICANT SHALL CARRY OUT THE CONSTRUCTION, RENOVATION, OR ALTERATION ONLY IN ACCORDANCE WITH THE PLANS APPROVED BY THE BOARD.

PURSUANT TO 11 DCMR § 3205, FAILURE TO ABIDE BY THE CONDITION IN THIS ORDER, IN WHOLE OR IN PART, SHALL BE GROUNDS FOR THE REVOCATION OF ANY BUILDING PERMIT OR CERTIFICATE OF OCCUPANCY ISSUED PURSUANT TO THIS ORDER.

IN ACCORDANCE WITH THE D.C. HUMAN RIGHTS ACT OF 1977, AS AMENDED, D.C. OFFICIAL CODE §§ 2-1401.01 *ET SEQ.* (ACT), THE DISTRICT OF COLUMBIA DOES NOT DISCRIMINATE ON THE BASIS OF ACTUAL OR PERCEIVED: RACE, COLOR, RELIGION, NATIONAL ORIGIN, SEX, AGE, MARITAL STATUS, PERSONAL APPEARANCE, SEXUAL ORIENTATION, GENDER IDENTITY OR EXPRESSION, FAMILIAL STATUS, FAMILY RESPONSIBILITIES, MATRICULATION, POLITICAL AFFILIATION, GENETIC INFORMATION, DISABILITY, SOURCE OF INCOME, OR PLACE OF RESIDENCE OR BUSINESS. SEXUAL HARASSMENT IS A FORM OF SEX DISCRIMINATION WHICH IS PROHIBITED BY THE ACT. IN ADDITION, HARASSMENT BASED ON ANY OF THE ABOVE PROTECTED CATEGORIES IS PROHIBITED BY THE ACT. DISCRIMINATION IN VIOLATION OF THE ACT WILL NOT BE TOLERATED. VIOLATORS WILL BE SUBJECT TO DISCIPLINARY ACTION.

**GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT**

Application No. 17646 of District-Properties.com, LLC, pursuant to 11 DCMR § 3104.1, for a special exception to allow the construction of a new twelve (12) unit¹ apartment building under § 353, in the R-5-A District, at premise 5126 Bass Place, S.E. (Square 4310, Lots 22, 23, and 24).

HEARING DATE: July 24, 2007

DECISION DATE: July 31, 2007

DECISION AND ORDER

This application was filed on March 23, 2007 by District-Properties.com, LLC, ("Applicant"), the owner of the property that is the subject of this application ("subject property"). The Applicant filed this application with the Board of Zoning Adjustment ("Board" or "BZA") because it received a March 9, 2007 letter from the Deputy Zoning Administrator at the Department of Consumer and Regulatory Affairs ("DCRA") informing it that it needed a special exception from the Board to construct its proposed apartment building. The application, therefore, requests a special exception, pursuant to §§ 3104 and 353 of the Zoning Regulations to permit the Applicant to construct its proposed project.

The Board held a hearing on the application on July 24, 2007, and at its conclusion, the Board requested further information, specifically, revised plans, from the Applicant. Such plans were submitted timely, and the Board held a decision meeting on the application on July 31, 2007, at which it voted 3-1-1 to grant the application.

PRELIMINARY MATTERS

Notice of Application and Notice of Hearing. By memoranda dated March 26, 2007, the Office of Zoning ("OZ") gave notice of the filing of the application to the D.C. Office of Planning ("OP"), the D.C. Board of Education, the D.C. Departments of Transportation and Housing and Community Development ("DHCD"), Advisory Neighborhood Commission ("ANC") 7E, the ANC within which the subject property is located, the Single Member District member for ANC 7E06, and the Council Member for Ward 7. Pursuant to 11 DCMR 3113.13, OZ published

¹The application was originally for a sixteen (16) unit apartment building, but, during the proceedings on the application, the number of units was reduced to twelve (12).

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notice of the hearing in the *D.C. Register*, and on May 9, 2007, sent such notice to the Applicant, ANC 7E, and all owners of property within 200 feet of the subject property.

Requests for Party Status. ANC 7E was automatically a party to this proceeding. There was also a request for party status from a neighbor which was withdrawn in favor of testifying as a person in opposition.

Applicant's Case. The Applicant presented his own case and testified as to how the project satisfied the special exception test.

Government Reports. The Office of Planning filed a report with the Board dated July 24, 2007 recommending approval of the application. OP had worked with the Applicant and was satisfied with the design and siting of the building, the provision of light and air for the units within the building and for neighboring buildings, and the landscaping and parking arrangements.

During the hearing, the Board requested additional comments from OP on the 10-foot wide driveways proposed on both sides of the building. OP filed a Supplemental Report with the Board dated July 26, 2007, stating that 12-foot wide driveways were required per 11 DCMR § 2117.8(c)(2), and that the Applicant, after being informed of this, had changed its plans to provide 12-foot wide driveways. The Supplemental Report, therefore, stated that the proposed project met the 12-foot width requirement of § 2117.8(c)(2).

The Department of Housing and Community Development submitted a report to the Board dated July 6, 2007 recommending approval of the application. DHCD opined that the size of the proposed building was consistent with the small apartment and townhouse scale of the neighborhood.

ANC Report. The ANC filed a letter with the Board dated July 16, 2007 indicating that, at a regularly-scheduled and properly-noticed meeting on July 10, 2007, the ANC voted 2-1-2 to recommend denial of the application. The ANC's major concern was that the Applicant's proposed building would not be in keeping with the character of existing property on the street. The ANC preferred single-family dwellings on the subject property in accordance with past use of part of the property.

The ANC was also concerned with the potential parking and traffic impacts of the proposed 16 units. The ANC's letter, however, was filed before the Applicant reduced the number of units in the final proposed project to 12, and no new ANC letter was submitted after the change. Therefore, the Board cannot know whether the reduction in the number of units would have affected the ANC's recommendation.

BZA APPLICATION NO. 17646**PAGE NO. 3****FINDINGS OF FACT***The Subject Property and the Surrounding Neighborhood*

1. The subject property is located in the Marshall Heights Neighborhood of Ward 7, in an R-5-A zone district, at address 5126 Bass Place, S.E. (Square 5310, Lots 22, 23, & 24).
2. The property is currently made up of three rectangular vacant lots, each of which is 40 feet wide by 100 feet long.
3. The Applicant proposes to consolidate the three vacant lots into one large lot with a lot width of 120 feet, and a lot area of 12,000 square feet.
4. The neighborhood surrounding the subject property consists of a mixture of small apartment buildings and single-family detached dwellings.
5. To the north of the subject property is a surface parking lot, the rear of which abuts the rear of the subject property. Single-story single-family detached dwellings are located on either side of the subject property.

The Applicant's Proposed Project

6. The Applicant proposes to construct a three-story building containing twelve apartment units, accessed from a central interior lobby area.
7. The building will be set back from Bass Place a minimum of ten feet, will have side yards of 15 feet, six inches, and a rear yard of approximately 45 feet, more than complying with the Zoning Regulations' requirements for side and rear yards in R-5-A zone districts. *See*, 11 DCMR §§ 404.1 & 405.9.
8. The height of the building will be 39.6 feet, in compliance with the maximum permitted 40 feet. *See*, 11 DCMR § 400.1.
9. The lot occupancy of the proposed building on the total of 12,000 square feet will be approximately 31.46 %, under the 40% permitted. *See*, 11 DCMR § 403.2.
10. The floor area ratio of the proposed building will be .88, and the maximum permitted is .9. *See*, 11 DCMR § 402.4.
11. There will be 12 parking spaces at the rear of the lot accessed by a one-way circulating drive aisle, which will be between 12 and 20 feet wide, as required by the Zoning Regulations. The driveway/drive aisle will have an entrance on Bass Place on the west side of the building, will continue behind the building, and will have an exit on Bass Place on the east side of the building. Both the number of parking spaces and the driveway width comply with the requirements of the Zoning Regulations. *See*, 11 DCMR § 2101.1, 2117.5, & 2117.8(c)(2).
12. The parking lot and driveway area will meet the required 5% threshold for landscaping, with 586 feet, or 8.8% of the area devoted to parking, landscaped with trees and bushes. *See*, 11 DCMR 2117.11.

BZA APPLICATION NO. 17646**PAGE NO. 4**

13. A 45-inch high brick wall will run along the rear and both sides of the property. A four-foot high metal fence, complemented with shrubbery, will run along the front of the property.
14. Pole-mounted lighting will be erected near the perimeter of the property to ensure adequate lighting for the driveway, parking lot, and trash enclosure, while minimizing light spill onto adjacent properties.

The Special Exception

15. The adjacent single-family dwellings flanking the subject property also have side yards.
16. The windows on the sides of the proposed building will be positioned so as not to align with the windows in the adjacent dwellings.
17. The size and design of the proposed building are in keeping with the neighborhood.
18. The building design includes brick-cladding, façade articulation, and horizontal banding, as well as a roof-level architectural embellishment, at the front of the building. The sides and rear of the building will be finished with complementary-colored vinyl siding.
19. The property is situated near public park space, such as Fort Dupont Park and Fort Chaplin Park.
20. The proposed building will provide infill development of three currently vacant lots, removing the negatives associated with vacant lots, such as trash and vermin.

CONCLUSIONS OF LAW

The Board is authorized to grant a special exception where, in its judgment, the special exception will be "in harmony with the general purpose and intent of the Zoning Regulations and Zoning Maps and will not tend to affect adversely, the use of neighboring property." 11 DCMR § 3104. Certain special exceptions must also meet the conditions enumerated in the section(s) pertaining to them. In this case, the application had to meet the requirements of § 3104 and the requirements of § 353. Section 353, however, has no specifically-applicable provisions. Instead, it directs the Board to refer the application to the D.C. Board of Education, the D.C. Departments of Transportation and Housing and Community Development, and the D.C. Office of Planning, for review and comments in the areas of those agencies' expertise. All the referral requirements were met in this case, but no reports were received from the Board of Education or the Department of Transportation.

With no specifically-applicable provisions set forth in § 353, the Board reviews this application under the general special exception standard set forth in § 3104. The proposed building is placed on the property, and its windows aligned, so as not to interfere with the use and enjoyment of neighboring property. The building meets all the dimensional requirements of the R-5-A zone, providing adequate side and rear yards, and therefore adequate access to air and light both for its

BZA APPLICATION NO. 17646**PAGE NO. 5**

units and for the adjacent structures. The project will provide the required number of parking spaces on-site in a landscaped rear parking lot, easily accessed off Bass Place through an efficient one-way circulation system. The lighting on the property has been placed to avoid negative effects on adjacent properties.

As a special exception use, a new residential development under § 353 is deemed a compatible use in the R-5-A zone district. Although the Board was concerned with the density of this development, its density has been reduced from 16 to 12 units, and there is now nothing about the project that detracts significantly from the presumed compatibility of a special exception use. Therefore, the Board is constrained to grant the application (See, *First Baptist Church v. D.C. Board of Zoning Adjustment*, 432 A.2d 695 (D.C. 1981)), and concludes that it is in harmony with the general purpose and intent of the Zoning Regulations and Zoning Maps and will not tend to affect adversely the use of neighboring property.

Great Weight

The Board is required to give "great weight" to issues and concerns raised by the affected ANC and to the recommendations made by the Office of Planning. D.C. Official Code §§ 1-309.10(d) and 6-623.04 (2001). Great weight means acknowledgement of the issues and concerns of these two entities and an explanation of why the Board did or did not find their views persuasive. OP performed a thorough analysis of all the aspects of the application called for by § 353, and recommended approval of the application, with which the Board agrees.

ANC 7E's report recommended denial of the application, but it was filed prior to a significant change in the application. When the ANC voted to deny the application, the project included 16 units and 16 parking spaces, 4 of which were located against the rear of the building. The application was subsequently changed to reduce the number of units and parking spaces to 12, with all parking spaces lined up along the rear of the property. The ANC did not file a second report after the change in the application and so, was unable to provide the Board with a recommendation as to the final project design. In addition, the ANC's argument that the proposed project would not be in character with the existing property on the street was based on 11 DCMR Section 410.12(b) which stated that a development "shall not affect adversely the present character or future development of the neighborhood." That provision was formerly referenced in § 353, but was subsequently repealed by Zoning Commission Order No. 06-05, effective April 6, 2007, and accordingly is no longer a standard that this Board may apply to this application. Finally, the ANC's written report was not signed by the Chairperson or Vice-Chairperson as required by 11 DCMR §3115.1(i), but it was clear from the contents of the report that it spoke for the ANC as a whole. The Board decided to grant the ANC's written report great weight (at least as to the project's original design), while keeping these shortcomings in mind.

For the reasons stated above, the Board concludes that the Applicant has satisfied the burden of proof with respect to the application for a special exception pursuant to §§ 3104 and 353, to construct a new residential development in the R-5-A district. Therefore, it is hereby

BZA APPLICATION NO. 17646**PAGE NO. 6****ORDERED** that this application is **GRANTED, SUBJECT TO THE FOLLOWING CONDITION:**

1. The windows on the east side of the proposed building must be positioned so as not to permit an intrusion into the privacy of the adjacent structure to the east of the proposed building.

VOTE: **3-1-1** (Ruthanne G. Miller, Marc. D. Loud, and John G. Parsons, to grant;
John A. Mann II to deny. No Zoning Commission member participating)

BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT

Each concurring Board member approved the issuance of this order.

FINAL DATE OF ORDER: DEC 07 2007

UNDER 11 DCMR 3125.9, "NO DECISION OR ORDER OF THE BOARD SHALL TAKE EFFECT UNTIL TEN DAYS AFTER HAVING BECOME FINAL PURSUANT TO THE SUPPLEMENTAL RULES OF PRACTICE AND PROCEDURE FOR THE BOARD OF ZONING ADJUSTMENT."

PURSUANT TO 11 DCMR § 3130, THIS ORDER SHALL NOT BE VALID FOR MORE THAN TWO YEARS AFTER IT BECOMES EFFECTIVE UNLESS, WITHIN SUCH TWO-YEAR PERIOD, THE APPLICANT FILES PLANS FOR THE PROPOSED STRUCTURE WITH THE DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS FOR THE PURPOSES OF SECURING A BUILDING PERMIT.

PURSUANT TO 11 DCMR § 3125 APPROVAL OF AN APPLICATION SHALL INCLUDE APPROVAL OF THE PLANS SUBMITTED WITH THE APPLICATION FOR THE CONSTRUCTION OF A BUILDING OR STRUCTURE (OR ADDITION THERETO) OR THE RENOVATION OR ALTERATION OF AN EXISTING BUILDING OR STRUCTURE, UNLESS THE BOARD ORDERS OTHERWISE. AN APPLICANT SHALL CARRY OUT THE CONSTRUCTION, RENOVATION, OR ALTERATION ONLY IN ACCORDANCE WITH THE PLANS APPROVED BY THE BOARD.

PURSUANT TO 11 DCMR § 3205, FAILURE TO ABIDE BY THE CONDITION IN THIS ORDER, IN WHOLE OR IN PART, SHALL BE GROUNDS FOR THE REVOCATION OF ANY BUILDING PERMIT OR CERTIFICATE OF OCCUPANCY ISSUED PURSUANT TO THIS ORDER.

IN ACCORDANCE WITH THE D.C. HUMAN RIGHTS ACT OF 1977, AS AMENDED, D.C. OFFICIAL CODE §§ 2-1401.01 ET SEQ. (ACT), THE DISTRICT OF COLUMBIA DOES

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NOT DISCRIMINATE ON THE BASIS OF ACTUAL OR PERCEIVED: RACE, COLOR, RELIGION, NATIONAL ORIGIN, SEX, AGE, MARITAL STATUS, PERSONAL APPEARANCE, SEXUAL ORIENTATION, GENDER IDENTITY OR EXPRESSION, FAMILIAL STATUS, FAMILY RESPONSIBILITIES, MATRICULATION, POLITICAL AFFILIATION, GENETIC INFORMATION, DISABILITY, SOURCE OF INCOME, OR PLACE OF RESIDENCE OR BUSINESS. SEXUAL HARASSMENT IS A FORM OF SEX DISCRIMINATION WHICH IS PROHIBITED BY THE ACT. IN ADDITION, HARASSMENT BASED ON ANY OF THE ABOVE PROTECTED CATEGORIES IS PROHIBITED BY THE ACT. DISCRIMINATION IN VIOLATION OF THE ACT WILL NOT BE TOLERATED. VIOLATORS WILL BE SUBJECT TO DISCIPLINARY ACTION.

**GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT**

Application No. 17665 of Jamal Kadri, pursuant to 11 DCMR § 3104.1, for a special exception under section 223, not meeting the lot occupancy (§ 403) and rear yard (§ 404) requirements, to construct a two-story addition at the rear of the property located in the R-4 District at premises 654 Independence Avenue, S.E. (Square 870, Lot 63).

Note: *The application was revised to request a special exception under § 223 instead of variance relief.*

HEARING DATE: September 25 and November 27, 2007
DECISION DATE: November 27, 2007 (Bench Decision)

SUMMARY ORDER

SELF-CERTIFIED

The zoning relief requested in this case was self-certified, pursuant to 11 DCMR § 3113.2.

The **Board provided proper and timely notice** of the public hearing on this application by publication in the D.C. Register, and by mail to Advisory Neighborhood Commission (ANC) 6B and to owners of property within 200 feet of the site. The site of this application is located within the jurisdiction of ANC 6B, which is automatically a party to this application. ANC 6B submitted a report in support of the application. The Office of Planning (OP) also OP filed a supplemental report recommending approval of the application, as amended.

As directed by 11 DCMR § 3119.2, the Board has required the Applicant to satisfy the burden of proving the elements that are necessary to establish the case pursuant to § 3104.1, for a special exception under section 223. No parties appeared at the public hearing in opposition to this application. Accordingly a decision by the Board to grant this application would not be adverse to any party.

Based upon the record before the Board and having given great weight to the OP and ANC reports the Board concludes that the Applicant has met the burden of proof, pursuant to 11 DCMR §§ 3104.1 and 223, that the requested relief can be granted as being in harmony with the general purpose and intent of the Zoning Regulations and

BZA APPLICATION NO. 17665
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Map. The Board further concludes that granting the requested relief will not tend to affect adversely the use of neighboring property in accordance with the Zoning Regulations and Map.

Pursuant to 11 DCMR § 3101.6, the Board has determined to waive the requirement of 11 DCMR § 3125.3, that the order of the Board be accompanied by findings of fact and conclusions of law. It is therefore **ORDERED** that this application be **GRANTED**.

VOTE: 4-0-1 (Marc D. Loud, Ruthanne G. Miller, Shane L. Dettman and Anthony J. Hood to grant; a fourth Board member not present, not voting).

BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT

Each concurring member approved the issuance of this order.

FINAL DATE OF ORDER: DEC 05 2007

UNDER 11 DCMR 3125.9, "NO DECISION OR ORDER OF THE BOARD SHALL TAKE EFFECT UNTIL TEN DAYS AFTER HAVING BECOME FINAL PURSUANT TO THE SUPPLEMENTAL RULES OF PRACTICE AND PROCEDURE FOR THE BOARD OF ZONING ADJUSTMENT."

PURSUANT TO 11 DCMR § 3130, THIS ORDER SHALL NOT BE VALID FOR MORE THAN TWO YEARS AFTER IT BECOMES EFFECTIVE UNLESS, WITHIN SUCH TWO-YEAR PERIOD, THE APPLICANT FILES PLANS FOR THE PROPOSED STRUCTURE WITH THE DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS FOR THE PURPOSES OF SECURING A BUILDING PERMIT.

PURSUANT TO 11 DCMR § 3125 APPROVAL OF AN APPLICATION SHALL INCLUDE APPROVAL OF THE PLANS SUBMITTED WITH THE APPLICATION FOR THE CONSTRUCTION OF A BUILDING OR STRUCTURE (OR ADDITION THERETO) OR THE RENOVATION OR ALTERATION OF AN EXISTING BUILDING OR STRUCTURE, UNLESS THE BOARD ORDERS OTHERWISE. AN APPLICANT SHALL CARRY OUT THE CONSTRUCTION, RENOVATION, OR ALTERATION ONLY IN ACCORDANCE WITH THE PLANS APPROVED BY THE BOARD.

BZA APPLICATION NO. 17665**PAGE NO. 3**

D.C. HUMAN RIGHTS ACT OF 1977, AS AMENDED, D.C. OFFICIAL CODE § 2-1401.01 ET SEQ., (ACT) THE DISTRICT OF COLUMBIA DOES NOT DISCRIMINATE ON THE BASIS OF ACTUAL OR PERCEIVED: RACE, COLOR, RELIGION, NATIONAL ORIGIN, SEX, AGE, MARITAL STATUS, PERSONAL APPEARANCE, SEXUAL ORIENTATION, FAMILIAL STATUS, FAMILY RESPONSIBILITIES, MATRICULATION, POLITICAL AFFILIATION, DISABILITY, SOURCE OF INCOME, OR PLACE OF RESIDENCE OR BUSINESS. SEXUAL HARASSMENT IS A FORM OF SEX DISCRIMINATION WHICH IS ALSO PROHIBITED BY THE ACT. IN ADDITION, HARASSMENT BASED ON ANY OF THE ABOVE PROTECTED CATEGORIES IS ALSO PROHIBITED BY THE ACT. DISCRIMINATION IN VIOLATION OF THE ACT WILL NOT BE TOLERATED. VIOLATORS WILL BE SUBJECT TO DISCIPLINARY ACTION. THE FAILURE OR REFUSAL OF THE APPLICANT TO COMPLY SHALL FURNISH GROUNDS FOR THE DENIAL OR, IF ISSUED, REVOCATION OF ANY BUILDING PERMITS OR CERTIFICATES OF OCCUPANCY ISSUED PURSUANT TO THIS ORDER.

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**GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT**

Application No. 17680 of First FSK LP, pursuant to 11 DCMR § 3104.1, for a special exception to continue the use of a parking lot (last approved by BZA Order No. 16912, dated October 12, 2002) under section 213, in the R-1-B District at premises 4817 U Street, N.W. (Square 1389, Lot 816).

HEARING DATE: November 13, 2007

DECISION DATE: December 4, 2007

SUMMARY ORDER

SELF-CERTIFIED

The zoning relief requested in this case was self-certified, pursuant to 11 DCMR § 3113.2.

The Board provided proper and timely notice of the public hearing on this application by publication in the D.C. Register, and by mail to Advisory Neighborhood Commission (ANC) 3D and to owners of property within 200 feet of the site. The site of this application is located within the jurisdiction of ANC-3D, which is automatically a party to this application. ANC 3D submitted a report in support of the application. The Office of Planning (OP) also submitted a report in support of the application.

As directed by 11 DCMR § 3119.2, the Board has required the Applicant to satisfy the burden of proving the elements that are necessary to establish the case pursuant to § 3104.1, for special exception under section 213. No parties appeared at the public hearing in opposition to this application. Accordingly a decision by the Board to grant this application would not be adverse to any party.

Based upon the record before the Board and having given great weight to the OP and ANC reports, the Board concludes that the Applicant has met the burden of proof, pursuant to 11 DCMR §§ 3104.1 and 213, that the requested relief can be granted, being in harmony with the general purpose and intent of the Zoning Regulations and Map. The Board further concludes that granting the requested relief will not tend to affect adversely the use of neighboring property in accordance with the Zoning Regulations and Map.

BZA APPLICATION NO. 17680

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Pursuant to 11 DCMR § 3101.6, the Board has determined to waive the requirement of 11 DCMR § 3125.3, that the order of the Board be accompanied by findings of fact and conclusions of law. It is therefore **ORDERED** that this application be **GRANTED**, **SUBJECT to the following CONDITIONS:**

1. Approval shall be for FIVE YEARS from the final date of this order.
2. All areas devoted to driveways, access lanes, and parking areas shall be surfaced and maintained with an all-weather *impervious, or acceptable all-weather pervious, surface*. In addition to traditional impervious surfaces, allowable all-weather surfaces include porous (or pervious) concrete, porous asphalt, and/or mechanically-reinforced grass, excluding grass or gravel.
3. The parking lot shall be designed so that no vehicles or any part of a vehicle projects over any lot line or building line.
4. No other use shall be conducted from or upon the premises, and no structure other than an attendant's shelter shall be erected or used upon the premises unless the use or structure is otherwise permitted in the district in which the parking lot is located.
5. No vehicular entrance or exit shall be within forty feet of a street intersection as measured from the intersection of the curb lines extended.
6. Any lighting used to illuminate parking spaces shall be arranged so that all direct rays are confined to the surface of the parking lot.
7. The parking lot shall be landscaped with trees and shrubs covering a minimum of five percent of the total area of the lot. The landscaping shall be maintained in a healthy growing condition and in a neat and orderly appearance.
8. A commercial parking lot management company will be engaged to manage the lot and maintain its appearance and condition.
9. The commercial parking lot management company shall institute a parking system designed to discourage commuter parking.
10. The parking restrictions will apply during the hours of 8 a.m. to 6 p.m.

BZA APPLICATION NO. 17680**PAGE NO. 3**

11. An agent of the parking lot management company will patrol the lot during normal business hours to enforce the parking restrictions.
12. The parking lot management company will be responsible for daily maintenance of the lot, keeping it free of refuse and debris, and for power sweeping the lot four times per year and providing snow removal services when necessary.
13. The parking lot shall be cleaned every three days, and the landscaping maintained every ten days during the growing season.
14. The applicant shall maintain signage on the light posts on the interior of the lot stating that CVS is responsible for maintenance of the lot and providing a telephone number to call if the lot needs to be cleaned.
15. The applicant shall report to the ANC on a quarterly basis, in writing, regarding the condition of the lot and any other concerns raised by the community.

VOTE: 3-0-2 (Ruthanne G. Miller, Michael G. Turnbull, and Shane L. Dettman to grant, no other Board members participating)

BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT

Each concurring member approved the issuance of this order.

FINAL DATE OF ORDER: DEC 10 2007

UNDER 11 DCMR 3125.9, "NO DECISION OR ORDER OF THE BOARD SHALL TAKE EFFECT UNTIL TEN DAYS AFTER HAVING BECOME FINAL PURSUANT TO THE SUPPLEMENTAL RULES OF PRACTICE AND PROCEDURE FOR THE BOARD OF ZONING ADJUSTMENT."

PURSUANT TO 11 DCMR 3130, THIS ORDER SHALL NOT BE VALID FOR MORE THAN SIX MONTHS AFTER IT BECOMES EFFECTIVE UNLESS THE USE APPROVED IN THIS ORDER IS ESTABLISHED WITHIN SUCH SIX-MONTH PERIOD.

PURSUANT TO 11 DCMR § 3205, FAILURE TO ABIDE BY THE CONDITIONS IN THIS ORDER, IN WHOLE OR IN PART, SHALL BE GROUNDS FOR THE

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REVOCATION OF ANY BUILDING PERMIT OR CERTIFICATE OF OCCUPANCY
ISSUED PURSUANT TO THIS ORDER.

IN ACCORDANCE WITH THE D.C. HUMAN RIGHTS ACT OF 1977, AS AMENDED, D.C. OFFICIAL CODE §§ 2-1401.01 *ET SEQ.* (ACT), THE DISTRICT OF COLUMBIA DOES NOT DISCRIMINATE ON THE BASIS OF ACTUAL OR PERCEIVED: RACE, COLOR, RELIGION, NATIONAL ORIGIN, SEX, AGE, MARITAL STATUS, PERSONAL APPEARANCE, SEXUAL ORIENTATION, GENDER IDENTITY OR EXPRESSION, FAMILIAL STATUS, FAMILY RESPONSIBILITIES, MATRICULATION, POLITICAL AFFILIATION, GENETIC INFORMATION, DISABILITY, SOURCE OF INCOME, OR PLACE OF RESIDENCE OR BUSINESS. SEXUAL HARASSMENT IS A FORM OF SEX DISCRIMINATION WHICH IS PROHIBITED BY THE ACT. IN ADDITION, HARASSMENT BASED ON ANY OF THE ABOVE PROTECTED CATEGORIES IS PROHIBITED BY THE ACT. DISCRIMINATION IN VIOLATION OF THE ACT WILL NOT BE TOLERATED. VIOLATORS WILL BE SUBJECT TO DISCIPLINARY ACTION.

**GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT**

Application No. 17688 of Taiwo Demuren, pursuant to 11 DCMR § 3104.1, for a special exception to allow the construction of a new four (4) unit apartment building under section 353 in the R-5-A District at premises 5323 D Street, S.E. (Square 5300, Lot 6).

HEARING DATE: November 27, 2007

DECISION DATE: November 27, 2007 (Bench Decision)

SUMMARY ORDER

SELF-CERTIFIED

The zoning relief requested in this case was self-certified, pursuant to 11 DCMR § 3113.2.

The Board provided proper and timely notice of the public hearing on this application by publication in the D.C. Register, and by mail to Advisory Neighborhood Commission (ANC) 7E and to owners of property within 200 feet of the site. The site of this application is located within the jurisdiction of ANC 7E which is automatically a party to this application. ANC 7E submitted a report in support of the application. The Office of Planning (OP) also submitted a report in support of the application.

As directed by 11 DCMR § 3119.2, the Board has required the Applicant to satisfy the burden of proving the elements that are necessary to establish the case pursuant to § 3104.1, for special exception under section 353. No parties appeared at the public hearing in opposition to this application. Accordingly a decision by the Board to grant this application would not be adverse to any party.

Based upon the record before the Board and having given great weight to the OP and ANC reports, the Board concludes that the Applicant has met the burden of proof, pursuant to 11 DCMR §§ 3104.1 and 353, that the requested relief can be granted, being in harmony with the general purpose and intent of the Zoning Regulations and Map. The

BZA APPLICATION NO. 17688**PAGE NO. 2**

Board further concludes that granting the requested relief will not tend to affect adversely the use of neighboring property in accordance with the Zoning Regulations and Map.

Pursuant to 11 DCMR § 3101.6, the Board has determined to waive the requirement of 11 DCMR § 3125.3, that the order of the Board be accompanied by findings of fact and conclusions of law. It is therefore **ORDERED** that this application be **GRANTED**.

VOTE: **4-0-1** (Marc D. Loud, Shane L. Dettman, Ruthanne G. Miller and Anthony J. Hood to approve; no other Board member participating)

BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT

Each concurring member approved the issuance of this order.

FINAL DATE OF ORDER: DEC 06 2007

UNDER 11 DCMR 3125.9, "NO DECISION OR ORDER OF THE BOARD SHALL TAKE EFFECT UNTIL TEN DAYS AFTER HAVING BECOME FINAL PURSUANT TO THE SUPPLEMENTAL RULES OF PRACTICE AND PROCEDURE FOR THE BOARD OF ZONING ADJUSTMENT."

PURSUANT TO 11 DCMR § 3130, THIS ORDER SHALL NOT BE VALID FOR MORE THAN TWO YEARS AFTER IT BECOMES EFFECTIVE UNLESS, WITHIN SUCH TWO-YEAR PERIOD, THE APPLICANT FILES PLANS FOR THE PROPOSED STRUCTURE WITH THE DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS FOR THE PURPOSES OF SECURING A BUILDING PERMIT.

PURSUANT TO 11 DCMR § 3125 APPROVAL OF AN APPLICATION SHALL INCLUDE APPROVAL OF THE PLANS SUBMITTED WITH THE APPLICATION FOR THE CONSTRUCTION OF A BUILDING OR STRUCTURE (OR ADDITION THERETO) OR THE RENOVATION OR ALTERATION OF AN EXISTING BUILDING OR STRUCTURE, UNLESS THE BOARD ORDERS OTHERWISE. AN APPLICANT SHALL CARRY OUT THE CONSTRUCTION, RENOVATION, OR ALTERATION ONLY IN ACCORDANCE WITH THE PLANS APPROVED BY THE BOARD.

BZA APPLICATION NO. 17688**PAGE NO. 3**

IN ACCORDANCE WITH THE D.C. HUMAN RIGHTS ACT OF 1977, AS AMENDED, D.C. OFFICIAL CODE §§ 2-1401.01 ET SEQ. (ACT), THE DISTRICT OF COLUMBIA DOES NOT DISCRIMINATE ON THE BASIS OF ACTUAL OR PERCEIVED: RACE, COLOR, RELIGION, NATIONAL ORIGIN, SEX, AGE, MARITAL STATUS, PERSONAL APPEARANCE, SEXUAL ORIENTATION, GENDER IDENTITY OR EXPRESSION, FAMILIAL STATUS, FAMILY RESPONSIBILITIES, MATRICULATION, POLITICAL AFFILIATION, GENETIC INFORMATION, DISABILITY, SOURCE OF INCOME, OR PLACE OF RESIDENCE OR BUSINESS. SEXUAL HARASSMENT IS A FORM OF SEX DISCRIMINATION WHICH IS PROHIBITED BY THE ACT. IN ADDITION, HARASSMENT BASED ON ANY OF THE ABOVE PROTECTED CATEGORIES IS PROHIBITED BY THE ACT. DISCRIMINATION IN VIOLATION OF THE ACT WILL NOT BE TOLERATED. VIOLATORS WILL BE SUBJECT TO DISCIPLINARY ACTION.

**GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT**

Application No. 17692 of Robert E. Bradley, pursuant to 11 DCMR §§ 3104.1, and 3103.2, for a variance from the parking requirements under subsection 2117.4, and a special exception allowing a food delivery service (pizza delivery/carry-out) under section 734, in the C-2-A District at premises 914 11th Street, S.E. (Square 996, Lot 809, 810, 814 and 817).

Note: The Board amended the application eliminating the originally requested variance from the FAR requirements.

SUMMARY ORDER

HEARING DATE: November 27, 2007

DECISION DATE: December 4, 2007

SELF-CERTIFIED

The zoning relief requested in this case was self-certified, pursuant to 11 DCMR § 3113.2.

The Board provided proper and timely notice of the public hearing on this application by publication in the D.C. Register, and by mail to Advisory Neighborhood Commission (ANC) 6B and to owners of property within 200 feet of the site. The site of this application is located within the jurisdiction of ANC 6B, which is automatically a party to this application. ANC 6B submitted a letter in support of the application. The Office of Planning (OP) submitted a report in support of the application.

As directed by 11 DCMR § 3119.2, the Board has required the Applicant to satisfy the burden of proving the elements that are necessary to establish the case pursuant to § 3104.1, for a special exception under section 734, and a variance pursuant to § 3103.2 from the requirements of section 2117.4. No parties appeared at the public hearing in opposition to this application. Accordingly a decision by the Board to grant this application would not be adverse to any party.

Based upon the record before the Board and having given great weight to the OP and ANC reports, the Board concludes that the Applicant has met the burden of proof, pursuant to 11 DCMR §§ 3104.1 and 734, that the requested relief can be granted, being in harmony with the general purpose and intent of the Zoning Regulations and Map. The Board further concludes that granting the requested relief will not tend to affect adversely the use of neighboring property in accordance with the Zoning Regulations and Map.

BZA APPLICATION NO. 17692

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Based upon the record before the Board, the Board further concludes that the applicant has met the burden of proving under 11 DCMR §§ 3103.2 and 2117.4, that there exists an exceptional or extraordinary situation or condition related to the property that creates a practical difficulty for the owner in complying with the Zoning Regulations, and that the relief can be granted without substantial detriment to the public good and without substantially impairing the intent, purpose, and integrity of the zone plan as embodied in the Zoning Regulations and Map.

Pursuant to 11 DCMR § 3101.6, the Board has determined to waive the requirement of 11 DCMR § 3125.3, that the order of the Board be accompanied by findings of fact and conclusions of law. It is therefore **ORDERED** that this application (pursuant to Exhibit 13 – Architectural Plans) be **GRANTED** subject to the following **CONDITION**:

1. The Applicant shall construct a three-sided brick enclosure for the dumpsters equal in height to the tallest dumpster (but not less than 6 feet) with an opaque opening not facing the residential district. The enclosure shall run the full length of the east side of Lot 817 (20 feet) as a buffer from the residential district.

VOTE: 4-0-1 (Ruthanne G. Miller, Marc D. Loud, Shane L. Dettman to Approve, Anthony J. Hood to Approve by absentee ballot. The third Mayoral appointee not voting, not having participated in the case).

BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT

Each concurring member approved the issuance of this order.

FINAL DATE OF ORDER: DEC 10 2007

UNDER 11 DCMR 3125.9, "NO DECISION OR ORDER OF THE BOARD SHALL TAKE EFFECT UNTIL TEN DAYS AFTER HAVING BECOME FINAL PURSUANT TO THE SUPPLEMENTAL RULES OF PRACTICE AND PROCEDURE FOR THE BOARD OF ZONING ADJUSTMENT."

PURSUANT TO 11 DCMR § 3130, THIS ORDER SHALL NOT BE VALID FOR MORE THAN TWO YEARS AFTER IT BECOMES EFFECTIVE UNLESS, WITHIN SUCH TWO-YEAR PERIOD, THE APPLICANT FILES PLANS FOR THE PROPOSED STRUCTURE WITH THE DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS FOR THE PURPOSES OF SECURING A BUILDING PERMIT.

BZA APPLICATION NO. 17692

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PURSUANT TO 11 DCMR § 3125 APPROVAL OF AN APPLICATION SHALL INCLUDE APPROVAL OF THE PLANS SUBMITTED WITH THE APPLICATION FOR THE CONSTRUCTION OF A BUILDING OR STRUCTURE (OR ADDITION THERETO) OR THE RENOVATION OR ALTERATION OF AN EXISTING BUILDING OR STRUCTURE, UNLESS THE BOARD ORDERS OTHERWISE. AN APPLICANT SHALL CARRY OUT THE CONSTRUCTION, RENOVATION, OR ALTERATION ONLY IN ACCORDANCE WITH THE PLANS APPROVED BY THE BOARD.

D.C. HUMAN RIGHTS ACT OF 1977, AS AMENDED, D.C. OFFICIAL CODE § 2-1401.01 ET SEQ., (ACT) THE DISTRICT OF COLUMBIA DOES NOT DISCRIMINATE ON THE BASIS OF ACTUAL OR PERCEIVED: RACE, COLOR, RELIGION, NATIONAL ORIGIN, SEX, AGE, MARITAL STATUS, PERSONAL APPEARANCE, SEXUAL ORIENTATION, FAMILIAL STATUS, FAMILY RESPONSIBILITIES, MATRICULATION, POLITICAL AFFILIATION, DISABILITY, SOURCE OF INCOME, OR PLACE OF RESIDENCE OR BUSINESS. SEXUAL HARASSMENT IS A FORM OF SEX DISCRIMINATION WHICH IS ALSO PROHIBITED BY THE ACT. IN ADDITION, HARASSMENT BASED ON ANY OF THE ABOVE PROTECTED CATEGORIES IS ALSO PROHIBITED BY THE ACT. DISCRIMINATION IN VIOLATION OF THE ACT WILL NOT BE TOLERATED. VIOLATORS WILL BE SUBJECT TO DISCIPLINARY ACTION. THE FAILURE OR REFUSAL OF THE APPLICANT TO COMPLY SHALL FURNISH GROUNDS FOR THE DENIAL OR, IF ISSUED, REVOCATION OF ANY BUILDING PERMITS OR CERTIFICATES OF OCCUPANCY ISSUED PURSUANT TO THIS ORDER. RSN